

**MINUTES OF THE
CHARTER REVIEW COMMISSION
City Hall Chambers
200 Lincoln Avenue
Tuesday, April 9, 2013**

CALL TO ORDER.

A meeting of the Charter Review Commission was called to order by the Honorable Patricio Serna, Chair, at approximately 5:00 p.m., on Tuesday, April 9, 2013, in the Small Meeting Room, Southside Library, 6599 Jaguar Drive, Santa Fe, New Mexico.

1. ROLL CALL

Roll call indicated the presence of a quorum as follows:

The Honorable Patricio Serna, Chair
Roman Abeyta
Steven G. Farber
Brian Patrick Gutierrez
John B. Hiatt
Houston Johansen
Carol Romero-Wirth
Daniel Werwath

MEMBERS EXCUSED

Nancy R. Long, Vice-Chair

OTHERS ATTENDING

Jamison Barkley, Assistant City Attorney
Irene Romero, City Attorney's Office
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance.

Chair Serna welcomed everyone to the meeting this afternoon, commenting on the good attendance. He said Vice-Chair Long is unable to be here this evening.

Chair Serna said after the last meeting, Melessia Helberg, Stenographer for the Commission, said she had difficulty transcribing the minutes because so many people were speaking at the same time. He said he promised her that, in the future, he would "keep control and allow only one person at a time to

speaking so she can do her job properly. And remember what Councilor Dominguez said last meeting, 'Promises made, promises kept.' So, Melessia I will keep my promise."

2. APPROVAL OF AGENDA

A copy of a letter dated April 8, 2013, to the Commissioners, regarding *Allowing hand counting of votes in municipal elections*, submitted for the record by John Otter, is incorporated herewith to these minutes as Exhibit "1."

Steve Farber said he would like to amend the agenda to postpone Item 6(A) to the next meeting of the Commission on April 23, 2013. He said this is an item with regard to the potential creation of an auditor/inspector general position. He had requested information from the City Attorney's office because he heard there was an Ordinance establishing an Audit Committee. He said we were just provided the Ordinance today with a Resolution and a report. He also requested the names and background information of those serving on the Audit Committee. He has not received the background information. He has special interest in this issue from a professional standpoint, knowing about the problems of the NM Finance Authority. He said there was a news article about Albuquerque's Inspector General quitting. He doesn't think there is sufficient time to digest the information for this meeting.

Chair Serna said we have a list of the members of the Audit Committee.

Irene Romero said we can provide background information on the Audit Committee. She said Lisa Kerr, Internal Auditor and she is prepared to make a presentation to the Commission on the issues that Commissioner Farber had requested.

Responding to the Chair, Ms. Kerr said she is prepared to move forward with her presentation today.

Commissioner Farber said would like to have the opportunity to read the Ordinance and Resolution and have an understanding so he can put the information into context. He said, "It may be that my idea and proposal is unnecessary. I just don't know."

MOTION: Commission Farber moved, seconded by Commissioner Abeyta, to postpone Item 6(A) to the meeting of April 23, 2013.

VOTE: The motion was approved unanimously on a voice vote.

Commissioner Farber said, with regard to Item #5, he arrived late to the previous meeting, but he said he had been under the impression that the issue with regard to Ranked Choice Voting had been removed and was not the subject of controversy because of comments Mr. Otter made. However, today we have a letter from Mr. Otter seeking that specific language be added to the Charter in this regard. He understood we were removing items on which there was no controversy. He would like to postpone Item

#5 to the point when we begin having actual debate about the various issues that have been presented to this Commission.

Chair Serna said, "Mr Otter, I have a question. It was our understand at the last meeting that due to the advancement in voting machines that you were requesting that we remove any action on Ranked Choice Voting from our consideration. Did we misunderstand you."

John Otter said, "Somewhat. What I was suggesting is that particular proposal to remove the contingency on voting machines, that that proposal be withdrawn, not that the whole subject of Ranked Choice Voting that the voters wanted to see implemented be dropped."

Mr. Hiatt asked, "So, Mr. Otter, in terms of your letter to us, is this specific language in the first paragraph that you want us to consider now."

Mr. Otter said, "Yes. Instead of removing the contingency, I'm suggesting we add language which would allow implementation of Ranked Choice Voting through hand counting or hand sorting in combination with machines."

Commissioner Farber said he agrees with Commissioner Farber that we should postpone this item as suggested.

MOTION: Commissioner Farber moved, seconded by Commissioner Hiatt, to postpone Item #5 to the point when we begin having actual debate about the various issues that have been presented to this Commission for consideration.

VOTE: The motion was approved unanimously on a voice vote.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to approve the, agenda as amended.

VOTE: The motion was approved unanimously on a voice vote.

3. APPROVAL OF MARCH 28, 2013 MINUTES

The following correction was made to the minutes:

Page 5, paragraph 5, correct as follows: "Chair Serna said the U.S. Supreme Court ruled on contribution limits, although the State Supreme Court ~~did~~ has not.."

Page 14, paragraph 5, correct as follows: "...referendum and initiative are in the Charter..."

MOTION: Commissioner Hiatt moved, seconded by Commissioner Johansen, to approve the minutes of the meeting of March 28, 2013, as amended.

VOTE: The motion was approved on a voice vote, with Commissioners Abeyta, Gutierrez, Hiatt, Johansen, Romero-Wirth and Werwath voting in favor of the motion, no one voting against, and Commissioner Farber abstaining.

4. PUBLIC COMMENT

A copy of Miranda Viscoli's statement for the record, entered for the record by Ms. Viscoli, is incorporated herewith to these minutes as Exhibit "2."

A copy of a Memorandum dated April 9, 2013, to the Santa Fe Charter Review Commission, from the League of Women Voters of Santa Fe County, submitted for the record by Karen Heldmeyer for the League, is incorporated herewith to these minutes as Exhibit "3."

Chair Serna said this Commission is unique in inviting public comment at the beginning and end of the meeting, as well as during the meeting. He believes this is what is meant by transparency and inviting participation of the citizens.

Miranda Viscoli spoke as a representative for New Mexicans for gun safety, as well as a third generation native of Santa Fe. Ms. Viscoli read her statement into the record, urging the Charter Commission to step outside of the box and find what may seem like an unexpected path toward reasonable gun safety laws." Please see Exhibit "2" for the text of Ms. Viscoli's statement.

Chair Serna said there are several issues on the national agenda, one of which are assault weapons and high capacity magazines. He said the one that appears to have a chance at the national level is registration of weapons at gun shows and private sales. He asked her which of these she is pushing.

Ms. Viscoli said she is pushing for all three, commenting "I'm not anti-gun, I celebrate people owning guns and going hunting. This isn't what that's about at all." She said, "I think on the city level, what we're looking at, what I'm interested in is Patti Bushee's bill on the excessive capacity [magazines], so that's why I'm speaking here today. I know that Santa Fe isn't in a position to go after the background checks. So, specifically for Santa Fe, I think as a City, as a capitol city of a State that has one of the worst records in terms of gun violence, we could stand as a role model, not only for New Mexico, but for other states, to say, come on, let's get on board, enough is enough - Connecticut, New York, Oregon, California, Colorado, and the list is getting longer, but we don't have the best reputation. So I think as a three generation native of this City, I would like to work to see something happen."

Karen Heldmeyer noted she distributed a Memorandum from the League of Women Voters containing proposed language for the various issues as indicated, which have been discussed at prior

meetings, and issues that will be coming up, in response to a request from this Commission at the previous meeting. She noted the proposal to limit campaign contributions does not limit it to only candidates that do not take public finance. She said, in thinking of the limitations, there are limits on candidates who take public financing as well. She said the Charter language should be as broad as possible, so they suggest setting limits on contributions which could be different for publicly and non-publicly financed candidates, and they are suggesting that go into the Ordinance rather than the Charter. She said the one thing that isn't in the Memo is the issue with regard to the City Manager and Mayor, noting there is no definition of Chief Executive Officer and Chief Operating Officer. They want to know what these terms mean and what the compare and contrast is, before they provide specific language. There has been confusion in the past in terms of the roles of the Mayor and the City Manager.

Former Councilor Heldmeyer said she just read Mr. Otter's letter on hand-counting ballots [Exhibit "1." She said the League has no position on hand-counting ballots. However, in terms of this Commission making informed decisions on the issue, she would refer, once again, the Commission to the two websites for the Minnesota League of Women Voters and San Jose League of Women Voters who took very different positions on Ranked Choice Voting. She said there are pros and cons on this issue, and if this issue is coming back, she would suggest the Commission look at the issue. She also would suggest a very clear explication of what the City Clerk and Denise Lamb, Former Santa Fe County Bureau of Elections Director, feel that they observed with the test of ranked choice voting. She said, "They are the front line people in this regard. Mr. Otter says in his letter that he feels that what happened at that test has been mischaracterized. I would say, try to get it from the horse's mouth."

Chair Serna asked if it would be advisable to invite them to the meeting when we discuss that issue.

Former Councilor Heldmeyer said yes, and suggested that the Commission ask Ms. Vigil specific questions about Ranked Choice Voting. She said the Commission asked Ms. Vigil a lot of questions about a lot of things when she was here, but that particular test was not discussed in any detail. She said you need to know about this in a fair amount of detail, and these two people can give you the most coherent description of it. She said the Commission might want to invite Rick Lass, "at whose instigation that test was done, and he was present as well."

Commissioner Hiatt said, "I would like to specifically thank the League and you, Councilor Heldmeyer for doing that. I think it helps us a lot when we have the specific language, rather than look to us to come up with the language."

Chair Serna said, "The City Attorney's Office can put it in legalese language at the appropriate time."

John Otter said, "I'm not a lawyer, so I have difficulty parsing all the language in the Constitution and the Charter, etc., but in reading the Constitution carefully again, I find that the Secretary of State's approval of electronic or mechanical voting systems requires that those preclude over-votes. And so, because Ranked Choice Voting involves choices of first, second and third, etc., choices to identify over-

votes in those choices, the machines that would do that, would be ones which actually take an electronic snapshot of the ballot before the rejection by the voter would be enabled to correct that. Those types of machines are being used, however, their federal certifications process is behind other kinds of machines that do Ranked Choice Voting. So it would be apparently a few years before they would be available, and besides which, there would have to be a machine at each polling place which would be expensive I assume."

Mr. Otter continued, "So, my interest in the subject, comes from the fact that the voters have had arguments for and against Ranked Choice Voting thoroughly. When the matter came up for the voters to vote on the Charter Review Commission recommendations previously, and they voted, I think it was 66% or some sizable majority in favor of Ranked Choice Voting. And so, that is not the subject of my interest. It is the implementation of that will of the voters. And so, perhaps I was a little precipitous earlier in withdrawing the previous idea of removing the contingency on voting machines and identification of errors that is currently in the Charter. That would be one alternative to get early implementation. However, my latest proposal here, which does have specific language to insert at a particular place in the Charter, currently, to the best of my [inaudible] legal ability, would allow for hand counting, hand sorting, in conjunction with the machines we have now. The usual procedure or most common procedure is to read the ballots of first choices and that determines whether or not there needs to be a Ranked Choice count, and then that proceeds. And I will probably not take your time now to repeat the arguments in my brief and further arguments which indicate the viability of this hand count procedure. So I'll do that when the matter comes up again. But, I would appreciate your attention to this particular matter. And there are a number of reference given in the brief if you wish to pursue it, or I would be happy to talk to you about it."

Commissioner Hiatt said he has questions, but he would like to postpone further discussion until it comes up on the agenda again.

Alejandra Seluja, Chair, Santa Fe Immigration Committee, said, "We will be submitting a memorandum with this recommendation, but we would like to ask that be included as a consideration by the Commission, that: *No municipal resources will be used to identify or apprehend any non-citizen resident on the sole basis of their immigration status, unless otherwise required by law to do so.*

Ms. Seluja said Resolution 1999-6, adopted by the City Council, appointed the Immigration Task Force and this is part of the language that was in the Resolution. She said, "We respectfully ask for that to be included in the Charter."

Commissioner Hiatt asked Ms. Seluja to submit specific language in writing.

Ms. Seluja said they do have specific language, and the Commission will receive it in a Memorandum in writing, noting it does reflect what is in Resolution 1999-6.

Jim Harrington, speaking as the former Chair, said, "First I have to congratulate the Commission on getting such an attendance. We never got anything like this. You did better than we did. But I had to add to and correct something I said about our work that I was asked about last time, and off the top of my head, made a guess and I shouldn't have, and I researched it. It concerns the number of signatures for initiative and referendum. The Charter now provides that you have to get 1/3 of the actual voters from the last Mayoral election, and that's the same as the percentage for recall. It turns out, our Commission actually recommended 20% of the actual voters in the last mayoral election for initiative and referendum and 1/3 for recall. And the Council saw fit to raise it from 20% to 1/3. So, just that bit of history. The purpose was still to lower it a great deal from where it was before that, which was 20% of the registered voters or 60% of the actual voters in the last mayoral election. But I'm sorry, I did mention that the Council had done something to that number that I couldn't quite remember. Thank you."

5. DISCUSSION/POSSIBLE ACTION TO REMOVE RANKED CHOICE VOTING FROM TOPICS.

This item is postponed to the meeting of April 23, 2013.

6. CONTINUED DISCUSSION OF TOPICS FOR REVIEW TO INCLUDE PUBLIC COMMENT.

A. CREATE AN AUDITOR/INSPECTOR GENERAL POSITION

This item is postponed to the meeting of April 23, 2013.

B. MARIJUANA PERSONAL POSSESSION AS A LOW PRIORITY FOR LAW ENFORCEMENT

A copy of §30-31-25.1 NMSA *Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions*, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "4."

A copy of HB 465, sponsored by Representative Emily Kane, with attached vote by the House of Representatives adopting the bill, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "5."

A copy of an article from the internet, *New Mexico Medical Marijuana*, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "6."

A copy of *Seattle Initiative 75 Initiative 75 Text*, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "7."

A copy of *Marijuana: Historical, Legal and Medical Facts*, prepared by NORML, Fall 2012, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "8."

A copy of a publication *Emerging Clinical Applications for Cannabis and Cannabinoids: A Review of the Recent Scientific Literature 2000-2010*, prepared by NORML Foundation, Washington, D.C., Paul Armentano, Deputy Director, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "9."

A copy of an internet article from *U News Center The university of Utah regarding Drivers on Cell Phones are as bad as drunks*, dated June 29, 2006, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "10."

Commissioner Farber said I have prepared some materials to hand out, and I'll present a brief idea of my ideas. He said, "I am also the proponent of the ban on excessive ammunition clips and assault weapons issues. It's really a prevention of gun violence initiative as well, not initiative in the context of referendum, initiative and recall, but with regard to a provision in our Charter. One isn't more important than the other. They're both very different and both very significant in my mind, and I have materials with regard to those."

Commissioner Farber continued, "The idea that I had from actually practicing law now for 40 years, and being involved in the criminal justice world for 40 years, starting as a Public Defender in Philadelphia, moving to Santa Fe, from 1976-1978 being the Acting District Defender of the Santa Fe Public Defender's Office. I was an Assistant Attorney General, serving under Attorney General Anaya and served with Justice Serna at the Attorney General's Office prosecuting complex prosecution. I turned down the opportunity to serve as the head of a task force with the interdiction of marijuana smuggling, because I felt back then, and feel now, that it is not a wise use of resources, and was being directed in a way that's not effective. The Attorney General, Toney Anaya, was gracious in his understanding of my personal position with regard to that issue. I've been a Member of the National Organization for the Reform of Marijuana Laws, for about as long as I can remember, since the early 1980s. I'm a supporter of the Drug Policy Alliance, and in support, not necessarily monetarily, of the Marijuana Policy Project and a number of other initiatives to try to bring about, from my perspective, some sanity to this issue that confronts us."

Commissioner Farber continued, "The War on Drugs is an abject [inaudible], there's no question about it. People who are non-violent offenders are being locked up, maybe not in Santa Fe, but around the State that's happening. People are getting in jail, people are getting arrested and prosecuted for small amounts of marijuana. And I distinguish between marijuana and other types of drugs. This is not a legalization of drugs initiative. I disagree with many of the positions that our former Governor Gary Johnson took, but I did agree, profoundly, with his courage to come forward, in his second term though, to attempt to create a different environment. Things are moving forward and I have documentations that I would like to share with you in a moment, but I wanted to have these preliminary remarks."

Commissioner Farber continued, "In this past Legislative Session, the New Mexico House of Representatives passed a bill by a vote of 37 to 33, HB 465, sponsored by Representative Emily Kane, who is a firefighter in Albuquerque, and who was publicly quoted as stating that she had never had a problem as a firefighter ever responding to any incident that involved just the possession or use of marijuana, unlike alcohol and other drugs. And we know from experience, around the country, there are studies and I'm going to hand this out, that a marijuana arrest is an easy arrest for a police officer. And

this is not to denigrate or criticize police officers. People who are in possession or have consumed marijuana are not combative. They are not, generally, giving a police office a hard time, regardless of what their age is. They go along. And there is a study from New York City showing this, and police officers, when they go through the arrest process, get overtime. And there is a cost to society by the officers not being on the street patrolling and prosecuting for those offenses which are in fact serious threats to the health, safety and welfare of this community, such as burglary, rape, robbery, assault and domestic violence.”

Commissioner Farber continued, “I feel on a personal and private level that the time has come to have a discussion. It was discussed in the House of Representatives, I think it should be discussed at the Charter Commission level, that we should have a provision in the Charter that states very similar to the Seattle Initiative [Exhibit “7”], of which I have copies that was an Ordinance. But I think this should be in the Charter. And it then went in, in terms of how it was implemented, that the Seattle Police Department and City Attorney’s Office shall make the investigation, arrest and prosecution of marijuana offenses, where the marijuana was intended for adult personal use, the City’s lowest law enforcement priority.”

Commissioner Farber continued, “No one I know, who is responsible, is in favor of adolescent use of marijuana. No one I know who is responsible does not speak to kids and/or young adolescents and young males to say that smoking or using marijuana isn’t a good idea. But that is different than prohibiting it, because we know that prohibition didn’t work for alcohol. What it does, is that it builds a disrespect for the law. What we need is to build up respect for the law, not build up a disrespect for the law, because we see and know that smoking or taking marijuana isn’t the demon that everybody says that it is in the public persona. Yet, if people in positions in power and authority say that it is, then kids who are growing up and who are impressionable, who are adolescent somehow think, well that’s not really reality, and I think it’s counter-productive.”

Commissioner Farber continued, “And we also know from the scientific study that young males’ pre-frontal cortex is not developed until their early twenties. So what we need to be doing is telling young guys, don’t do it, because it’s not good for you. But we need to not be arresting and prosecuting kids that happen to have this, because what happens is they have an arrest, as long as it’s criminal, it’s on their record, it will never go away, except for the first offense sometimes as a conditional discharge. And then there’s an issue about whether that even applies in Magistrate Court or whether Magistrate Judges even give conditional discharges. And that’s something I can get into at some other point.”

Commissioner Farber continued, “So that’s essentially the premise that I have. I think that there should be, in the Charter, a provision similar to the Seattle Ordinance which says that it is the lowest priority, and leave it up to the Council to adopt an ordinance, that’s not our job. I’m not saying that’s something we should be doing, but we can, as a community have this discussion, and I’d like to move it forward.”

Commissioner Farber distributed copies of a publication from NORML called *Marijuana: Historical, Legal and Medical Facts* [Exhibit “8”]; the Legislation passed by the New Mexico House of Representatives [Exhibit “5”]; a copy of the Seattle Initiative [Exhibit “7”] and a packet of materials along with a listing of cities who have passed similar legislation – Seattle, Oakland, Santa Barbara, Santa Cruz, San Francisco,

Santa Monica, West Hollywood, Eureka Springs, Arkansas, Missoula, Montana, Denver, Fayetteville, Arkansas, Hawaii, Kelly, Idaho, Kalamazoo, Michigan, Tacoma, Washington. He said this is independent of informal policies announced by law enforcement in New Orleans, Philadelphia, New York City. He said there is a recognition that we need police patrolling streets rather than arresting non-violent offenders who are not creating harm in a societal way.

Commissioner Farber said New Mexico is one of 20 states that have the medical marijuana laws. He said, "It is recognized in scientific literature that cannabis has extraordinary health benefits for people through the endo-cannabinoid system. It gets complicated, but we all as individuals have an endo-cannabinoid system in our bodies called ECD, and then there are ECN's. And it has a beneficial effect and a therapeutic effect in many ways. Unfortunately the New Mexico Statute is limited to 15-17 approved conditions. They're all very serious, and we wouldn't wish anyone to have these medical conditions, but there are lesser ailments for which it has been shown to be beneficial throughout the country." He said this is a monograph he sent to a doctor at Mayor Clinic who sent a note back saying it was very interesting, thank you very much, noting he is a pain and spine specialist.

Commissioner Farber said, "I just want to close with one other very significant aspect of this. I know the Chief's here, I don't know what the Chief's position is. I don't think there's a written policy that prosecution of personal possession and use of marijuana is a low priority enforcement. I would like to see a written policy in the Police Department. I've seen a quote that says, well it's not really being done that much, but I think the statistics may not be entirely accurate with regard to that, because I think that different officers view things differently. And oftentimes these kinds of laws can be used in a disparate fashion against minorities, youth and people who just don't seem to be the norm. I doubt that I'm going to get stopped walking down the street, but you never know. But other people do and they get frisked and they end up getting charged and arrested and having to call me. I get calls all the time and I have to walk people through this."

Commissioner Farber continued, "And there's another aspect that also makes it very significant, is that we may not realize it, but if a kid, an adolescent, a young adult, has less than an ounce of marijuana, but has papers for rolling it, has a bowl which they smoke out, has a pipe, has a bong, has a vaporizer in their car because they don't want it into their lungs – that is paraphernalia. And paraphernalia, unless you practice criminal law you don't understand, is a misdemeanor under New Mexico law. That means people usually get arrested, taken to jail, post a bond, and have a misdemeanor arrest on their record as opposed to possession of less than an ounce here is a fine of \$100 generally, with up to 15 days in jail. So there's an enormous consequence to this and that is why I raise it for discussion, for debate for questions. Thank you Chair. I have a copy of the paraphernalia statute if anybody wants to read it. [Exhibit "4"]

Chair Serna opened the floor for public comment, which he said will be followed by comments from the Commissioners. He noted Police Chief Rael and his cousin State Policeman Eric Jaramillo and his wife Karen are in attendance.

Police Chief Rael said, "The Santa Fe Police Department does not set policy in terms of what is criminal or not criminal. The fact of the matter is that possession of marijuana is a criminal offense at this time, and we merely enforce the laws that are broken. Now, we do not make them a top priority. The mere possession of marijuana is not something we expend our resources on, nor do we allocate overtime, nor target individuals for possession. Generally speaking, when we encounter and charge an individual, it is incident to an arrest or as an included offense part of another crime. The issue of personal consumption, I don't believe it is necessary... it's a drug of choice and I believe it can be regulated."

Chief Rael continued, "I would caution that completely eliminating any criminal offenses may tie our hands in terms of certain situations. We've received several complaints in terms of the Plaza, the Cathedral Park, where we have had individuals that are public smoking marijuana and potentially using other drugs. In those cases, I believe it is appropriate to have some enforcement ability. Consumption in private may be another matter. In any case, we do not concentrate and focus large amounts of energy, manpower efforts or overtime. We do, however, pursue those individuals who possess marijuana with intent to distribute, or large amounts. We definitely focus on those. I think the policy for this body, the Senate, the City Council, the House of Representatives, and we will follow whatever direction we receive. But please keep in mind that we do not primarily focus on possession. I am available to answer any questions you may have."

Commissioner Farber said, "I recognize and the reason I'm bringing this forward as a policy statement is that the Santa Fe [inaudible] cannot do anything that is contrary to State law. And under State law, marijuana today is illegal, except to the extent that people have actively registered and gotten recommendations through the medical part of the program and are in compliance with that program. The attempt in the Legislature of Representative Kane, was to decriminalize certain amounts. So I realize our limitations. And my thought was that there should be a policy statement, because the Chief may not be the Chief forever, there may be other Chiefs, there may be other philosophies that we as a community can say, we don't want to be putting out resources into, not that it's okay, but let's be doing other things, and let it be stated as a low enforcement priority. We have no power to legalize it, I understand that."

Commissioner Hiatt said, "I'm not quite sure I know exactly what you said, but I think I understand that it's not a priority that you put out to the law enforcement people that serve under you. But if this Commission were to pass a recommendation to the City Council, similar to what Commissioner Farber read from Seattle, and if the Council put it out to a vote of the public, and if it were approved by the public, would that then have some effect in terms of costs or threats to our society that would concern you. First of all costs in a positive way I presume. Would you see anything that would benefit?"

Chief Leyba said he is unsure he understand's Commissioner Hiatt's question.

Commissioner Hiatt said, "I'm not sure I do either. I'm trying to pin you down, at least if I can, is there going to be a benefit to communities cost-wise if this were recommended to the Council and to the voters and they passed it. What would be the impact you think on the City Police Department?"

Chief Rael said, "That's a difficult question to answer, simply because I don't have a lot of the information, and I haven't studied this in detail. But I will tell you this, and maybe this is a matter that I have to refer to Legal, but an Officer is sworn to enforce the law, and as long as those laws are on the books and were passed, if we observe a violation, I'm not sure how we ethically turn the other way and not enforce what is an actual law. We can reduce priorities in terms of enforcement, but to say that we are now going to legalize, in essence, something has been made illegal by the State Legislature, puts the police officer in somewhat of a difficult position I believe."

Commissioner Hiatt asked, "If again, language similar to Seattle's was approved by the public and became law as part of the Charter, would you see the threat to our community to be any greater or lesser as a result of this."

Chief Rael said, "I don't necessarily believe that marijuana is a direct threat to our community. I believe that many of the harder drugs, heroin, cocaine, methamphetamines are the root cause of a lot of potential danger to our citizens. A direct relationship exists between those drugs and property crimes, so I see those as much more hazardous. The thing I would tell you, is if that decision was made, I still think there needs to be a prohibition in certain locations about the consumption of marijuana where it should be prohibited in public places, if you will."

Commissioner Farber thanked the Chief for distinguishing between different kinds of illegal substances. He asked, "Wouldn't a Police Officer observing somebody, let's just say, possessing and/or smoking marihuana in public, have the ability to issue a non-traffic citation to summon that person to court for both the cigarette paper, the bole and the marijuana, rather than arrest him."

Chief Rael said, "The ability currently exists in many cases. In many cases it is, in fact utilized. Generally, when an individual is charged for possession of marijuana it's in relation to another associated crime. As an example, there is a public affray, two individuals are fighting, the arrest is made, subject is then found to be in possession of marijuana, the subject is arrested, he subsequently is charged with both the public affray and the possession."

Commissioner Farber said, "You are equating public affray with marijuana, that doesn't necessarily happen all the time, or even most of the time. Correct."

Chief Rael said, "No, I'm equating it necessarily in every occasion. I'm saying this is an example of where the individual would be charged. It may be DWI, Careless Driving, where marijuana is detected and the subject admits that he or she is in possession. It may be any number of incidents, but generally speaking, we do not go out and target individuals simply for the mere possession of marijuana. There has to be an additional charge or an additional crime."

Commissioner Farber said he isn't talking about targeting, but what happens in these situations. He asked the Chief if he is familiar with the University of Utah Study that equates cell phone use while driving with a 0.08 which the presumptive limit for driving while intoxicated, and Chief Rael said he is.

Commissioner Farber said he sees people talking on cell phones constantly throughout the City, but he doesn't see them getting stopped.

Chief Rael said unfortunately they have limited resources, and where appropriate they do stop and cite individuals, but he can't speak to each and every incident.

Commissioner Farber said, "Similarly, as with someone talking on a cell phone, because that's presumably against City Ordinance, someone in possession of a small amount of marijuana for personal use could be given the same kind of citation and expect a summons."

Chief Rael said, "It's my understanding that some do, and many are not charged if it is a small amount and they propose to dispose of it, if they do, they walk."

Eric Jaramillo said, "I want to emphasize that I am in no way, shape or form representing the State Police tonight. But I do want to say that, Mr. Farber I do agree with a lot that you do have to say tonight. In my 10 years experience as a law enforcement officer, the vast majority of times I've dealt with people for possession of marijuana under 1-2 ounces, they are very compliant, very respectful. I've never had any issues with them when compared to people who are under the influence of alcohol or other illicit drugs. Marijuana, I don't know if it is a cliché or a stereotype, but they're very mellow. They're not always violent or disrespectful, so that's been my experience in 10 years. So a lot of what you say, I do agree with. However, I'm wondering, you say these people are arrested, my experience and the experience of my other officers that I've seen, we don't arrest them, unless you mean we've issued a citation. 99.9% of the time, we issue them a non-traffic citation and cite them into court, unless they are being difficult or very disrespectful, then we will arrest them, or in lieu of other charges, DWI, public affray or something like that, then we will arrest them. But, the majority of the time we don't, we'll just issue a non-traffic citation for possession under one ounce or what have you."

Mr. Jaramillo continued, "You asked the question a while ago, how it would benefit our community if we were to pass this resolution. I haven't done the research on it, but I can tell you off the top of my head, first and foremost it would free up the dockets in Magistrate Court if we were to legalize it. And I'm not condoning or pushing to pass this resolution, I'm just stating my opinion. So it would free up the dockets in Magistrate Court, freeing up time for judges to hear other possibly more serious cases. From our Department standpoint, it would free the officer's court time. It would free up the amount of evidence we have logged in our evidence vaults, which I can tell you, possibly the majority of it is marijuana under one ounce and various drug paraphernalia items. So, from that perspective, that's what I see would be the benefit."

Commissioner Hiatt thanked Mr. Jaramillo for attending and giving us his personal opinion. He asked, "In your 10 years experience, if this were passed, similar to the Seattle language that you heard Commissioner Farber talk about previously, and approved by citizens of Santa Fe, do you have an opinion as to whether or not that would pose an additional threat to our society."

Mr. Jaramillo said, "I don't know for sure. My instinct would say no, I don't see an additional threat. However, I'm sure you've heard, in research into marijuana, it is a gateway drug to harder drugs. I don't know what the research shows one way or another. My instinct though would be to say no, because my experience is these people are typically mild mannered and respectful and don't want to cause any issues."

Chair Serna thanked Sergeant Jaramillo.

Emily Kaltenbach, State Director, New Mexico Drug Policy Alliance, said she is here this evening to voice her support for this discussion and conversation. She said, "I applaud the Commission for being willing to have this conversation, to look at this as the lowest priority for law enforcement. The Drug Policy Alliance has been working both at the State and local level for many years on policy issues like this. We worked closely with Representative Kane during the last Legislative Session to reduce the penalties for possession from four ounces and below to be a civil infraction and taking away the jail time. And while we were doing that we were quite astounded by the data. I think, oftentimes there's misconception in New Mexico that we don't arrest people for having small amounts of marijuana. In fact, the data tells another story. Over 3,000 arrests in New Mexico were made for possession of marijuana, again, we're talking about adults, and that varied from community to community and county to county. But it's a concern, because those numbers actually were higher than some of the more serious property crimes we saw in this State."

Ms. Kaltenbach said, "We've done some preliminary research on looking at the Santa Fe Police Department Data in 2012, and it shows there were 103 arrests for marijuana possession, compared to about 81 for heroin or opiates. We have to understand, and both the law enforcement officers mentioned this, that oftentimes these are coupled with other more serious crimes. What we did was look preliminarily at how many of those arrests were solely for possession or the most serious crime, the highest charge. And what we found was that about 50% were solely for marijuana or where it was the highest crime, and those were the ones that we're most concerned about. Again, and I don't want to reiterate what we heard very eloquently stated, but again, this is a burden on the system, law enforcement and the criminal justice system, but also on families."

Ms. Kaltenbach continued, "Misdemeanors are no small issue. They can tear people apart, people can lose their jobs as a result or perhaps not be able to get a job in the future. So, I'm concerned that those arrests can really impact our economy in a small city like Santa Fe, or as we look at this across the State. And then also just imagine the time one arrest consumes for the law enforcement officer – driving all the way out to the County jail to book someone, driving back in. We know we've had serious property crimes issues in the City. If we could only divert those law enforcement officers to deal with those issues, I think we would be better off as a community."

Ms. Kaltenbach continued, "I also just want to mention that we did some polling during the Session of New Mexicans on this issue, and what we found is that 57% of New Mexicans support reducing penalties for marijuana possession and basically support what Rep. Kane's bill was. We're seeing a shift here in New Mexico on our public perception. And I also want to mention that a majority of those we polled

who had children under the age of 18 also supported this, so we're seeing parents who recognize that oftentimes an arrest of their children creates a great burden, and we should be treating this as a health issue in our children, and not a criminal issue."

Ms. Katlenbach continued, "And I also want to add, on the Seattle Initiative that Commissioner Farber mentioned, that there was an independent panel review of this ordinance, of this policy, and what they found was there is no evidence to increased crime, no evidence of increased use among our youth or young adults, no adverse impact on the public health. And they also found that there was a significant reduction in arrests, where there had been hundreds in the City of Seattle, and that was down to just dozens after this ordinance went into effect. So I'll just end with, during the time when we have really tight City budgets as well as tight household budgets, that our taxpayers are entitled to a system that works. And I think this is a common sense approach. It's nothing new or nothing novel, as Commissioner Farber mentioned, it started in 1979 in Berkeley and many communities have followed suit and so I think it's a policy that can work for Santa Fe. Thank you."

Chair Serna said he heard some time back that many years ago in New Mexico that 80% of the prison population were minorities, and the greatest offense they were there for was on possession of marijuana. He said we have made advances through the years.

Chair Serna welcomed Councilor Peter Ives.

Councilor Ives said he represents District 2, and apologized for his lateness, noting he was attending the Water Conservation Committee which he chairs, and got here as quickly as possible. He said Councilor Wurzbarger said she is out of State, and won't be able to be here this evening. He thanked the Commissioners for their service on the Commission and said he knows the City anxiously awaits the recommendations of the Commission.

Commissioner Hiatt thanked Commissioner Farber for bringing this forward and for doing his homework, commenting this won't be an easy be an easy topic. He will commit to approaching the topic with an open mind.

Chair Serna thanked Commissioner Farber for the information.

Commissioner Romero-Wirth asked said she is curious as to how many municipalities actually put this provision in their charter or their constitutional governing document, which is what Commissioner Farber is requesting here, commenting this would be an important piece of information.

Commissioner Farber said he can get that information. He said, "I can tell you that Colorado, our neighboring state, put in by a vote of its population, a provision that allows personal possession for medical use initially, and just passed in this last year, as a part of their Constitution, Initiative #64 which legalizes personal possession of marijuana for recreational uses."

Commissioner Romero-Wirth said she is aware that passed in Colorado, but it was a constitutional change.

Commissioner Farber said it is more significant that it was in the state constitution.

Chair Serna said the Charter is the constitution for the City of Santa Fe.

Commissioner Werwath thanked Commission Farber for putting all of this together. He said, "In the spirit of making informed decisions about this, he would like to request that you produce the actual text of what you would like included in the Charter. We also share concerns about the ambiguity of putting ordinance-like language into a charter document. So, I would be interested in seeing how you end up formulating that."

Commissioner Farber said, "It would be my idea, but we can discuss it when we decide when we will be discussing this, that it would be a policy statement very similar to the Seattle ordinance, without going into creating an ordinance."

C. WATER CONSERVATION ISSUES

Chair Serna asked who put forward this issue, and former Councilor Heldmeyer said it was the League of Women Voters..

Former Councilor Heldmeyer said Section 2.03 of the Charter deals with Environmental Protect, and they were surprised that there is nothing specifically in it about water, given the importance of water to this area. She said the City League has a specific position on water, and there is an even more detailed position from the State League.

Former Councilor Heldmeyer said, "In keeping with the idea that this is the constitution and not the ordinance, we are recommending the following be added to the Environmental Protection section, which is a policy statement: *Because water quality and availability are extremely important to the citizens of Santa Fe, the Governing Body shall protect, preserve and enhance the City's water resources, to regulation, conservation and tying development to water availability.* And that's more or less a direct quote of the local League's position. If other people want to add further details than this, the League could probably support it given the State League's position which is more detailed."

Chair Serna asked Councilor Ives his thoughts about the proposed language.

Councilor Ives said, "I am seeing this for the first time in the last 5 minutes, and I don't have the original provision to compare and contract. My recommendation of that provision is that it generally requires protection of the environment in the broad context. Certainly that broad context, in my mind, is very appropriate for the Charter in terms of how the Charter should be expressed. There should be broadly based goals. And I suppose the only reservation I might have is that a lot of this is, to some degree, drilling down to the day to day operations of these City. And I can tell you, coming from the Water Conservation Committee and knowing the work that the Public Utilities Committee does regularly, water conservation and water issues are continually and constantly in our mind. The Public Utilities Committee gets regular reports on drought issues, on the National Oceanographic and Aeronautics Administration

Reports in terms of anticipated weather patterns across the country. Indeed, the last one we spoke about at the Water Conservation Committee in the last hour was the one which suggested that the El Nino effect was going to be minimal, meaning we are going to have a fairly dry again summer, and our monsoons might not be as productive as we were otherwise hoping.”

Councilor Ives continued, “We get regularly the statistics on what the storage in our reservoirs are, what the inflow into the reservoirs are, and in fact that information is reported almost daily in *The New Mexican* so that information is readily available. We do have programs in place tying development to water availability, depending on the size of the project. Various developers are required to bring water rights into the City as part of their approval process. We also water bank conservation measures which allow smaller development in some circumstances to ensure that there is always a proper balance between the City water supplies and uses on those supplies during the year. We’ve been fortunate, in terms of its progressive and forward looking plan, especially with the Buckman Diversion and San Juan/Chama diversion which basically allocates 5,040 afy of water from that basin specifically for the City of Santa Fe, and that’s the water that is stored at El Vado Lake.”

Councilor Ives continued, “I’m not sure that expressing this [in the Charter] would change anything in current practices. Watching the papers in the past week, you would have seen that based on the new Office of the State Engineer calculation algorithm, City water use is at 109 gallons per day per capita across the City, which represents one of the lowest consumption rates in the entire U.S. And as we drill down into those numbers, based on the OSE numbers, household use per capita is approximately 59 gallons, which again, evidences the good work that the City has been doing continually in this area. And, certainly, from my perspective, in terms of what we’re doing at Water Conservation, new volunteer programs to encourage landscape proper usage and the like, and doing a great deal to continue that trend.”

Councilor Ives continued, “Again, I’m simply not sure that this is necessary to change any attitude or effort that the City is currently undertaking. I think Santa Fe stands as one of the best examples in the country for water conservation issues. We have an executive summary of those measures that we shared with the Legislature during the Session. We have talked with our Congressional staff about potential imbalances. That would be it in a nutshell, and I’m happy to try to answer any questions.”

Commissioner Farber said, “You understand that it is not the intent of the League of Women Voters to be critical of the City of Santa Fe, but rather to insert, within our constitution, a statement that articulates, for all future generations, a value that we would like the community perhaps to have, that’s represented in our constitution, independent and irrespective or regardless of all the wonderful programs that the City has been since before I was on the Council, when I was on the Council and after I was on the Council. It’s simply a policy statement for the future.”

Councilor Ives said, “Understood. It’s simply a question of how much detail you want to put into those policy statements.”

Commissioner Farber said, “I believe that the sum and substance of the language is what was read.”

Councilor Ives reiterated he doesn't have the existing provision in front of him, and he knows it calls for protection of the environment in a broad context.

Commissioner Farber said the suggestion is to insert, after the second sentence in 2.03, under Environmental Protection the following language: *"Because water quality and availability are extremely important to the citizens of Santa Fe, the Governing Body shall protect, preserve and enhance the City's water resources through regulation, conservation and tying development to water availability."*

Councilor Ives said he would like to look at the language and then try and answer your question more fully.

Commissioner Farber said, "My only question is do you understand this is just a policy statement, not an intent to legislate."

Councilor Ives said, "I think so, and it's a question of detail one asks for as part and parcel of that. I think it's appropriate for, and I think the City has evidenced the capacity to properly balance those issues, perhaps without the additional language that is here, and I'm not sure, given future generations, whether we need to change any of the language which has brought us to being a leader across the United States on those issues. So, not meaning to quibble words, but rather suggesting that what's there is sufficient and clearly has been to accomplish that goal in a very significant way. I'm not sure why a change would be needed, given again what Santa Fe does regularly in this area."

Commissioner Hiatt said, "I'll try to say this less articulately than my colleague, and that is, in case there are people elected in the future who aren't as enlightened as you, that's why I think it's important for the voters to consider this kind of language. And we don't know that, but I would never expect anybody not to understand water conservation is critical for us. Thank you, I appreciate that."

Councilor Ives said it is hard for me to imagine that somebody that said we simply have to develop every square inch of ground, regardless of water availability, would ever be elected.

Commissioner Romero-Wirth said, "I would be interested in your thoughts, once you've had the chance to look at the League's language and what's in this section. We do talk about the City's natural endowments, which probably is an old fashioned way of referring, maybe, to water, I don't know, and other natural resources. So maybe there's some way to bring water in here that's not as detailed as this, and sort of flows with what's already here, but I think I would be open to other suggestions as well. I'm also curious, you thoughts about the end of the League language, 'tying development to water availability,' and what the City's role is in what sort of development the City has jurisdiction over, and what the League means by "tying." And just a little bit more on that."

Former Councilor Heldmeyer said, "Let me start out by saying, the reason that this in here is, when we heard there was going to be a Charter Commission, a number of people on the League's action committee took a look at the Charter to figure out how the League's position could relate to the Charter. And one of the comments we got back frequently from people, is how can there be a Charter that doesn't even mention water. We understand it talks about natural resources, natural endowments, all those shorts

of things. I didn't take a poll, but for many people in the League, water is one of the most crucial issues facing the City, and that's not denigrating the measures that the City has taken, some of which Councilor Farber voted for, some of which I voted for, some of which Councilor Ives has voted for. And there was a feel that because this was such a crucial issue, it ought to be included in a specific way. "

Councilor Romero-Wirth asked, "And you don't think any of this language already captures it, again this is the Constitution and it should be a broad policy statement."

Former Councilor Heldmeyer said, "This is the Constitution. It doesn't say what regulation, it doesn't say what conservation. The most specific of the three is tying development to water availability, but it also doesn't say how one goes about doing that. Do you have a toilet program. Do you have a program developed."

Commissioner Romero-Wirth said, "What I want to know is tying. And tying is an interesting verb."

Former Councilor Heldmeyer said, "It is an interesting verb, but it's the verb that's in the League's position, but there are many different ways to implement that, that certainly over the years, the City has tied different ways to implement that. But, we think it's important, because... however the City wants to do that, the relationship between development and water is an important one, so it's, I won't say deliberately vague, but it's deliberately general, but is what presumably you want in the Charter. And, I can think of probably half a dozen ordinances that have been passed in the last 15 years that might fall under that rubric. But, it's something that the League really feels is important, that it needs to go forward in the future. And needs to be in the Charter in case the day comes, as many other things we're proposing to put in the Charter, the day comes when there's a Governing Body that says, well nuts to that. We're just going to get rid of that idea. It's an idea."

Councilor Ives said, "Just to follow up, and I certainly have the utmost respect for the League of Women Voters, and they do a fabulous job all across our country, and certainly have known of them since I was a kid growing up back in Connecticut. I would be happy to take a more considered look at this, rather than try and speak off the cuff. The other thing, I think, it's always important to get the input from the balance of City staff on this. And I would be happy to undertake that and come back to the Charter Commission by its next meeting with any follow-up on it, potential language modifications, if any seem appropriate and also talk with the League about those changes from the City's perspective as well. I'm certainly not trying to avoid any good things for the City by just taking a somewhat cautionary note here tonight."

Chair Serna said, "And remember that the City Council will have the final word on what is sent out to the public for a vote. I appreciate and understand that you and the City Council will have the final say-so."

Commissioner Romeo-Wirth said, "But I would appreciate some thought into this. And again, my issue is this is the Constitution, this isn't an ordinance. We don't want to get into the day to day. We want very broad policy statements, and I just want to be sure that we aren't causing problems, because constitutions are a lot harder to change than ordinances."

Councilor Ives said, "True and as they should be. Just trying to look quickly to see whether there is any reference to air quality in this Environmental Protection provision. I don't see that there."

Commissioner Romero-Wirth said, "And again, we talk about the City's natural endowments, which are pretty broad statements. If we want to start listing all of the City's natural endowments, what if we forget one. And again, the constitution is broad, very broad, very general, and we shouldn't get into the day to day, that's why we have you to do the ordinances."

Councilor Ives said, "I certainly appreciate that perspective, so let me make the commitment to get back to the Commission will get back by the next meeting with something in writing, just a little more cogent expression of an idea for your consideration."

Chair Serna noted the next meeting will be on April 23, 2013, at the Santa Fe Public Library at 5:00 p.m.

D. BAN ON EXCESSIVE AMMUNITION CLIPS/ASSAULT WEAPONS ISSUES

A copy of an article from www.NYTimes.com, *Weekend Gun Report: March 29-31, 2013*, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "11."

A copy of an article from www.NYTimes.com, *Weekend Gun Report: April 5-7, 2013*, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "12."

A copy of the Supreme Court Opinion in *State Ex Rel. New Mexico Voices for Children, Inc. v. Denko*, 2004-NMSC-011, 135 N.M. 439, 90 P.3d 458, denying the petition and holding entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "13."

Commissioner Farber said he is mindful of the time, and that he is going through this very quickly does not in any way indicate that I think this is less important than the issue with regard to law enforcement priority or personal possession of marijuana, and is in fact in many ways, it's more important.

Commissioner Farber said, "It is somewhat coincidental that today, of all days, is National Call-in-Day of the faith communities, to make their voices heard, by calling senators of all faith communities to pass meaningful gun violence prevention legislation. And I would like to refer to this as gun violence prevention legislation. And the language that I would propose is that, ultimately, subject to tweaking is '*The City of Santa Fe shall have gun violence prevention ordinances.*' That means that we have to comply with State law. We understand that. Article 2, Section 6 of the Constitution provides that 'municipalities and counties cannot interfere with the right to bear arms, incident to the right to bear arms.' But there are other things that can be done that don't take away firearm possession from individuals, even assault weapons from individuals. We are allowed, it seems to me, to be thoughtful and to come forward with reasonable regulations that for forward toward gun violence protection [prevention?], such as an excessive ammunition feeding device [inaudible]."

Commissioner Farber continued, "In my mind, though I have heard some City staff say, incidence of firearms means you can't even touch anything. You can't talk about ammunition. If we were to recommend to the Council that they have a provision that says 'you should have an ordinance,' perhaps in a report under the rubric of gun violence prevention measures, of excessive capacity magazines, giving them an idea of what they can do. Because, to my knowledge, and the Justice was on the Court at the time, but I read *State of New Mexico Voices for Children, Inc. v. Denko*, and I have copies to provide [Exhibit "13"]. There's not a word in this opinion about ammunition or that you can't regulate ammunition. There are potential other careful, thoughtful approaches to developing local ordinances at our level that would not be inconsistent with State law. And we need to do this. We need to do it for moral reasons. We need to do it to set a path for other municipalities to follow."

Commissioner Farber said, "I'm also sending out... Senator Blumenthal from Connecticut has just introduced in the U.S. Senate, or stated that he intends to introduce, and this is just a page that anybody can get from the Hill, legislative regulating and banning excessive ammunition clips, strips and magazines. In the last Congress, in both the House and the Senate, though they were not passed, there were these pieces of legislation pending. The fact that one Representative stopped Representative Easley's bill from going forward by an amendment, I this is unfortunately tragic. Because that could have, at least, set the stage for a debate about who we are as a State, who we are as a community, that we're against gun violence. It can happen anywhere, anytime to any community. And I think we need to be attentive to that. And, I recommend to any Commissioner who has an hour to listen to Mayor Bloomberg on C-SPAN. He gave a remarkable, remarkable at the Bloomberg School of Public Policy and Research at John Hopkins University, regarding his view of measures for gun violence."

Commissioner Farber continued, "Again, we have to understand our role is limited. I understand that, but it doesn't mean that we should do nothing. And it doesn't mean that we can do nothing. We have to be creative. The Council has to be creative. And I'd also like to... several weeks ago, in looking at this, I noted in *The New York Times*, Joe Nocera, who is actually their business writer, has been writing a blog that he calls *The Weekend Gun Report*. And I made copies of this [Exhibits "11" and "12"] for the Commissioners to read and review. This is two weeks ago. He talks about the more than 3,000 people who have been killed by guns since Newtown. And he updated it again this week. And if you go onto *The New York Times* under blogs, and you find it, he has links to where he gets this information. It's shocking. It's upsetting. It's disturbing, and we can do better. We as a community, it seems to me, can set the standard and say we want gun violence prevention ordinances, and let the City Council figure out what is permissible under State law, but as a community say, this is something we should have. And that's why I brought it forward and refined the idea and thank you for allowing me to take this time."

Chair Serna then asked if there is public comment.

Paul Schmitt, Coordinator, New Mexicans for Gun Safety, noting Miranda Viscoli is a member of the organization. He said his family hasn't been here for 3 generations, although he has been here for 42 years, so he guesses that counts for something.

Responding to the Chair, Mr. Schmitt said there are two Paul Schmitts, noting he is a landscaper and the other guy is a lawyer. Mr. Schmitt said, "I have been married for 30 years, so if you were there many years ago, there is a chance."

Mr. Schmitt said, "We're all aware that there are many reasons why our country is experiencing the epidemic of violence that we are experiencing right now with firearms. It is my belief that we are experiencing this because firearms are easily accessible to people that really shouldn't have them, and that the pull of the trigger can do so much damage, so quickly. So I'm asking you to do something right now. I'm asking you to make me proud of this City, a City that I've been a citizen of for the past 42 years. I want you to do something about this. I want you to help. I know that you have the ability to do this. I know you have the ability to do something positive for the City, something that might give us something to be proud of, as far as this issue, and that's really all I have to say."

Commissioner Hiatt asked, "Are you pro or con."

Mr. Schmitt said, "I want you to do something that we can be proud of that can prevent more gun deaths. Yes. I'd like to see you do something that could help us enforce better protection for our citizens. Thank you."

Commissioner Hiatt asked Chief Leyba if he has anything to offer, and if not, he has some questions for the Chief.

Chief Leyba said, "I'd be more than happy to answer your questions, sir."

Commissioner Hiatt said, "I have to tell you personally, that every time I watch this on television, and I see some chief of police somewhere in the United States standing up and trying to explain what happened, and perhaps why it happened, that I don't see your face, and wonder when it's going to happen here. And so, while I haven't made up my mind, whether or not to enforce this in terms of something we might do, I really do want to hear your opinion and whether or not you think that this kind of policy, if it were approved by the voters, could a positive impact on the safety of our community."

Chief Leyba said, "I do believe that there is a place, both in our society and in our City, for gun violence prevention. Now the extent of that, and what will work, I don't know. I will tell you that I think that some steps are common sense. Steps such as improving background checks, ensuring that people are qualified to possess these guns, following up with the appropriate charges against individuals who have no business possessing guns, such as felons who are prohibited. I don't know that the prohibition of any specific item, weapon, or piece of ammunition is necessarily going to prevent any more gun violence. There's one weapon, whether it's single shot or multiple shot, can be just be as deadly as another."

Chief Leyba continued, "The reality of it is, that I believe our culture needs some changes. I believe there's a whole lot more that needs to be done to educate the public. I believe that anyone that carries a firearm should meet minimum qualifications to carry and receive some training. But, talking about any specific item, as I see this recommendation doing, I don't necessarily know it's going to have an immediate or long term impact, simply because the 'devil's in the details,' as the attorneys like to say. How

are we going to enforce it. We have no ability to go into peoples' houses and verify that they have an ammunition magazine of a certain capacity as opposed to others. And we're back to the situation where it has to be incidental to arrest or as part of a lesser included crime. We make an arrest for something else, we find that, then we charge."

Chief Leyba continued, "In and of itself, is it going to prevent anything. No. I think the more effective approach is to educate people and come up with common sense approaches to ensure that those people that have weapons are qualified to carry them, that they're safely secured. And that, although we have some other checks and balances to address our cultural love of violence and handguns, as opposed to outlawing any one specific items or group of items, the reality is, there's a bunch of them out there."

Commissioner Hiatt said, "I want to look specifically at what Commissioner Farber has said, because I may have been a part of perpetuating this. When we started early on, and we were talking about this, I picked up on the language of assault weapon ban or something. And he's now focused our attention of gun violence prevention legislation. And so, without being more specific, I think I've heard you say specifically that background checks and training and those kinds of things are all things that you would be supportive of, I think, in terms our local community. So if, indeed the community passed this proposal from this Commission that had those kinds of elements in it, you would be supportive of that. That's what I've heard, I think you said,"

Chief Leyba said, "Absolutely, sir. I am firmly in support of any common sense approach that would minimize violence, not just with guns, extended to knives, extended to bats, whatever the case is. There's a deeper cause for this problem I believe, and guns are just one part of the problem. So, any form of crime prevention, violence prevention, I think any police chief would be crazy to tell you they wouldn't support that."

Chair Serna said, "I'd like to share something with the Commissioners and the public. I went to my home town of Reserve, New Mexico last summer. And while I was there, they happened to be having a gun show at the Fairgrounds. So, I told my wife, why don't we go and see what that's all about. Frankly, I was shocked, because my home town is a small town and it's a hunting community. In high school, we would get a week off to go hunting and all that, so I'm familiar with all that. But what shocked me at that show was the availability of assault rifles, 30 round banana clips, [inaudible] with 16 round magazine clips. Now obviously that's not for hunting, and anyone could go, and it could have been convicted felons maybe even escapees, and if they had the money, they bought it. No background check, nothing. And it just scared the dickens out of me, the availability, and those that want these types of dangerous weapons. They're going to these gun shows in small towns throughout the country and they are buying them, and that's a threat to our safety. I just wanted to share that with you."

Commissioner Farber said last week, March 29th, *The New Mexican* had an editorial, which is entitled, "Powerful Facts in Gun Debate," if anybody didn't see it and wants to go back and review it.

Commissioner Farber said, "I'm just pointing out, as the Chief said, violence isn't just with guns. Today there was a report of 18 people who were stabbed and harmed in some school. The difference with firearms, is that when it happens, it happens immediately. And aside from the assault weapon issue, more

suicides happen successfully through the use of firearms. When you do it, you are going to pretty much succeed. Pills maybe not, stabbing maybe not, choking maybe not, asphyxiation maybe not, but the firearm, I think it's in the high nineties. So we have a problem, and we need to somehow as a community, it seems to me, to take a stand and say, we're in favor of gun violence prevention. That's the reason I brought this forward. Thank you."

E. TECHNOLOGICAL IMPROVEMENTS

Chair Serna asked the proponent of this topic.

Commissioner Werwath said it was him, and he is willing to postpone this. He said the point he was making is that he was suggesting including language in the Charter which encourages the City, to the greatest extent possible, to use modern technologies to increase the transparency of government to the public, and public participation in City government. He said he will take a stab at drafting language in this regard for consideration by the Commission at a future meeting.

Chair Serna said that would be great.

F. APRIL 23, 2013 – GOVERNANCE ISSUES – SANTA FE PUBLIC LIBRARY

- 1) CREATE A FULL TIME MAYOR**
- 2) MAYOR TO HIRE/FIRE CITY ATTORNEY, CITY CLERK AND CITY MANAGER**
- 3) MAYOR TO ACT AS CHIEF EXECUTIVE OFFICER**
- 4) OTHER GOVERNANCE ISSUES TO BE DISCUSSED AND/OR RAISED**

G. MAY 9, 2013 – CITY COUNCIL CHAMBERS

POLICY ISSUES

- 1 LIMIT CONTRIBUTIONS TO CANDIDATES THAT DO NOT ACCEPT PUBLIC FINANCING.**
- 2) SALARIES TO BE SET BY AN INDEPENDENT COMMISSION.**
- 3) FULL AND COMPLETE DISCLOSURE OF USES FOR TAX BONDS PRIOR TO ELECTION.**
- 4) BROADEN REFERENDUM AND INITIATIVE RIGHTS OF VOTERS.**
- 5) SIGNATURES TO BE REQUIRED FOR PETITIONS/RECALLS.**

7. DISCUSSION/POSSIBLE ACTION AGENDA ITEMS FOR FUTURE MEETINGS.

8. COMMUNICATION FROM CHARTER COMMISSION MEMBERS

Commissioner Hiatt said he would like to express his appreciation publicly to Commissioner Romero-Wirth for the summary of issues that came out this week which was very helpful, and it will be helpful as we go forward, in terms of drafting language.

Commissioner Farber said, "May I just share, through communications I had with Jamison, I will be submitting something that refines, as we did today, sort of where I was coming from, [inaudible] but in a different way."

Commissioner Werwath said he would encourage all Charter Commission members to "take a look at that and suggest any changes, or fill in the gaps, and the sooner, the better, if there is any way you guys could do that before early next week, around Tuesday or Wednesday. I'd love to get that on the website and out to the public as soon as possible."

Commissioner Farber said at some point, perhaps at the next meeting, we need to set a deadline that says, "okay, we've heard the discussion, this is the date for submission of proposed language. And then we can figure out at what meetings we would then vote on those proposals."

Commissioner Romero-Wirth said, "I think we had decided that we are not taking any action until we have been to all the Council Districts, and we have two more to go, right."

Ms. Romero said there is only one more to go.

9. PUBLIC COMMENT

Sherry Johansen, Neighborhood Network, said the Neighborhood Network is very concerned that a provision be included in the Charter for the preservation of neighborhoods, and the character of neighborhoods, and that neighborhoods are an integral part of our community, and the unique characteristics of each of the neighborhoods should be considered in terms of land use, planning and permits are concerned. She said, "I think after being at the meeting today, I would like to have that be considered, and we would propose language similar to the language that is included in the Human and Civil Rights Preservation and the Environmental Protection Preservation of the policy statement, which is more general than what my Board has originally proposed. So now I need to go back to my Board."

Chair Serna noted that Rick Martinez, President of the Neighborhood Network, was at the last meeting and asked if she is working with him on this.

Ms. Johansen said, "Yes. We need to provide the language, but I'll be sure that goes forward and is considered by the Commission."

Chair Serna said, "We are very receptive to that and we are supportive of you, and we ask for your help."

10. ADJOURNMENT

There was no further business to come before the Commission.

MOTION: Commissioner Abeyta moved, seconded by Commissioner Johansen, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 7:05 p.m.

The Honorable Patricio Serna, Chair

Melessia Helberg, Stenographer